

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIVIL ACTION NO. 2:19-cv-00035

\$18,910 UNITED STATES CURRENCY
\$15,440 UNITED STATES CURRENCY
ONE 5 OZ. GOLD BAR
ONE 1 OZ. GOLD COIN
EIGHTY 1 OZ. SILVER COINS
FIVE 5 OUNCES OF SMALL SILVER COINS
TWO 1 OZ. SILVER BULLETS

Defendants.

VERIFIED COMPLAINT OF FORFEITURE

Comes now, the United States of America ("Plaintiff"), by and through its attorneys, Michael B. Stuart, United States Attorney for the Southern District of West Virginia, and Christopher R. Arthur, Assistant United States Attorney for the Southern District of West Virginia, and respectfully states as follows:

NATURE OF THE ACTION

1. This is a civil action in rem brought on behalf of the United States of America, pursuant to 18 U.S.C. § 983(a), to

enforce the provisions of 21 U.S.C. § 881(a)(6), for the forfeiture of the defendants' property on the grounds that it was furnished or intended to be furnished in exchange for a controlled substance, or constitutes proceeds traceable to such an exchange, in violation of the Controlled Substances Act, 21 U.S.C. §§ 801 et seq.

THE DEFENDANT IN REM

2. The defendants' property is more particularly identified as follows:

- i. \$18,910 in United States Currency;
- ii. \$15,440 in United States Currency;
- iii. One 1 oz. gold bar;
- iv. One 1 oz. gold coin;
- v. Eighty 1 oz. silver coins;
- vi. Five ounces of small silver coins; and
- vii. Two 1 oz. silver bullets.

The above items were seized on or about November 16, 2018, from the possession of Mr. Bill Barker ("Barker") at 2204 6th Avenue, Apt. B and Apt. C, Parkersburg, West Virginia 26101, or from the possession of an individual who was identified as "Chanthasaly".

JURISDICTION AND VENUE

3. Plaintiff brings this action in rem in its own right to forfeit and condemn the defendant properties. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345, and over an action for forfeiture under 28 U.S.C. § 1335(a).

4. Venue is proper in this district pursuant to 28 U.S.C. § 1335(b)(1), because the acts or omissions giving rise to the forfeiture occurred in this district.

5. Upon the filing of this verified complaint, the plaintiff requests that the Clerk of this Court issue an arrest warrant in rem pursuant to Supplemental Rule G(3)(b)(i), which the plaintiff will execute upon the seized personal property in the custody of the United States Marshals* Service, pursuant to Supplemental Rule G(3)(c).

BASIS FOR FORFEITURE

6. The defendant properties are subject to forfeiture to the United States pursuant to 21 U.S.C. § 881(a)(6) because it was purchased with cash that constitutes proceeds of the illegal sale of controlled substances.

FACTS

7. On November 14, 2018, the Parkersburg Narcotics Task Force ("PNTF"), obtained a search warrant for 2204 6th Avenue, Apt. B., Parkersburg, West Virginia 26101 (hereinafter "residence") relating to a controlled purchase of suspected marijuana that had previously occurred at the residence. PNTF also had information that a large shipment of marijuana would be arriving at the residence on November 16, 2018.

8. On November 15, 2018, a confidential informant notified PNTF that the shipment was going to be delivered by an individual who was identified as "Chanthasaly". An Ohio DMV records check for "Chanthasaly's" name revealed a 2016 Honda Acord, bearing Ohio registration plate GVK4721, and 2014 Toyota Tundra, bearing Ohio registration plate GVJ9612 registered in his name.

9. On November 16, 2018, PNTF and the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") observed a brown Toyota Tundra, bearing the registration number identified the previous day as "Chanthasaly's" Toyota Tundra, and followed the vehicle to Barker's residence.

10. After the driver, later identified as "Chanthasaly", exited Barker's residence, PNTF and ATF executed the warrant on the residence.

11. During the search, the following items were located and seized:

- i. Sixteen (16) bags of suspected marijuana located in a safe in the living room;
- ii. Four (4) bags of suspected marijuana located on the floor in the living room; and
- iii. Thirteen (13) bags of suspected marijuana located in a safe in the bedroom.

12. In addition to the illegal substances, the defendant properties were seized. Some of the identified defendant properties were seized during a consent search of Barker's mother's residence, which was identified as 2204 6th Avenue, Apt. C, Parkersburg, West Virginia 26101. Barker's mother advised that the items that were seized from Apt. C, did not belong to her.

13. The occupant of the residence, Bill Barker ("Barker"), advised PNTF and ATF that he had been selling marijuana for approximately 29 years.

14. Barker disclosed that he had two sources of income—selling marijuana and social security.

15. Barker also admitted that "Chanthasaly" delivered marijuana to him on that day.

16. On the same day, PNTF and ATF initiated a traffic stop of "Chanthasaly's" vehicle and recovered \$15,440. \$15,000 of which was bundled in separate bands of \$1,000 each.

17. PNTF contacted a K-9 unit who performed an exterior sniff of the vehicle. The K-9 indicated on the vehicle.

18. PNTF and ATF observed items consistent with the cultivation of marijuana inside the vehicle. These items consisted of two large buckets with dirt residue in them, a plastic freezer bag, tubing, and two water pressure regulators.

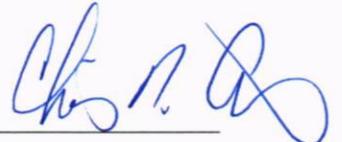
19. ATF further located a black duffle bag, and when opened, ATF immediately smelled a strong odor of marijuana coming from inside the bag. The bag also contained a large stack of U.S. Currency consisting of fifteen (15) smaller stacks each containing \$1,000.00 for a total of \$15,000 in U.S. Currency. An additional \$420.00 was located on "Chanthasaly's" person and \$20.00 was located in the center console of the vehicle.

20. For the foregoing reasons, the defendant properties are forfeitable to the United States, pursuant to 21 U.S.C. § 881(a)(6), because it was purchased with cash that constitutes proceeds of the illegal sale of controlled substances, specifically marijuana, a Schedule I controlled substance.

WHEREFORE, the United States prays that process of warrant in rem issue for the arrest of the defendant properties; that due notice be given to all parties to appear and show cause why the forfeiture should not be decreed; that judgment be entered declaring the defendant properties be forfeited to the United States for disposition according to law; and that the United States be granted such other relief as this Court may deem just and proper, together with the costs and disbursements of this action.

Respectfully submitted,

MICHAEL B. STUART
United States Attorney

By: s/Christopher R. Arthur 
CHRISTOPHER R. ARTHUR
Assistant United States Attorney
WV State Bar No. 9192
300 Virginia Street, East
Room 4000
Charleston, WV 25301
Telephone: 304-345-2200
Fax: 304-340-7851
E-mail: chris.arthur@usdoj.gov

VERIFICATION

STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, TO-WIT:

I, Sean M. McNees, Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives, declare under penalty of perjury as provided by 28 U.S.C. § 1746, the following:

That the foregoing Complaint for Forfeiture in rem is based upon reports and information I personally have prepared or gathered and which have been provided to me by various law enforcement personnel, and that everything contained therein is true and correct to the best of my knowledge and belief, except where stated to be upon information and belief, in which case I believe it to be true.

Executed on January 9, 2019.



SEAN M. MCNEES
Special Agent

Taken, subscribed and sworn to before me this 9th day of January, 2019.



Diana L. Roberts
Notary Public

My commission expires on April 26, 2020.

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

\$18,910 in U.S. Currency, \$15,440 in U.S. currency, one 5 oz. gold bar, one 1 oz gold coin, eighty 1 oz. silver coins, five 5 oz. small silver

County of Residence of First Listed Defendant Wood*(IN U.S. PLAINTIFF CASES ONLY)*NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.Attorneys (*If Known*)
can't from above
coins, two 1 oz. silver bullets**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- | | |
|---|--|
| <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i> |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i> |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

| | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|---|--|---|--|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act |
| <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | REAL PROPERTY <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | CIVIL RIGHTS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | PRISONER PETITIONS <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) |
| | | | | FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 |
| | | | | <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| | | | | Act |

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|---|---|--|---|--|--|---|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
21 U.S.C. 881(a)(6)**VI. CAUSE OF ACTION**Brief description of cause:
Forfeiture or drug proceeds**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.**DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No**VIII. RELATED CASE(S)**

IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

1/10/19

SIGNATURE OF ATTORNEY OF RECORD

*Chris R. Antos***FOR OFFICE USE ONLY**

RECEIPT #

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____